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BONNIE LEE

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BONNIE LEE

Plaintiff,

vs.

COUNTY OF KERN, a public entity; KERN
COUNTY PROBATION DEPARTMENT, a
public entity; and PROBATION OFFICER
CARLOS SILLAS, individually and in his
official capacity,

Defendants.

Case No.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

1. Trespass to Chattel [Willful Injury to Animals]
2. Conversion
3. Negligence Per Se/Cruelty to Animals [Penal Code §597(a)]
4. 42 US §1983
6. Negligence (Government)
7. Negligence (Individual)
8. Intentional Infliction Of Emotional Distress

DEMAND FOR JURY TRIAL

I.

INTRODUCTION

Plaintiff herein brings this suit for the improper and unlawful shootings of her family companions, Dexter and Della.

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II.

JURISDICTION AND VENUE

1. Jurisdiction of this court arises pursuant to Article III Section 2 of the United States Constitution, as well as 28 U.S.C. Section 1331 which states that "The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." Federal question jurisdiction arises pursuant to 42 U.S. Section 1983 as well as the Fourth Amendment to the United State Constitution.
2. Venue is proper pursuant to 28 U.S.C § 1391 because the events giving rise to this complaint happened in this district.

III.

PARTIES

3. Plaintiff BONNIE LEE (hereinafter referred to as "LEE" or "Plaintiff" is, and at all times herein mentioned, a natural person residing in Bakersfield, California. LEE is the guardian/owner of the beloved companion canines named Dexter and Della.

4. Plaintiff is informed and believes and therefore alleges that Defendant, COUNTY OF KERN (hereinafter referred to as "Kern County" or "defendant" or "defendants"), a public entity is, and at all time herein mentioned, a County and political subdivision of the State of California, duly organized and existing under the laws of the State of California. The County of Kern is responsible for the improper and unlawful shootings of Dexter and Della, which resulted in severe injury to Della and the death of Dexter.

5. Plaintiff is informed and believes and therefore alleges that Defendant, KERN COUNTY PROBATION DEPARTMENT (hereinafter referred to as "Kern County Probation" or "defendant" or "defendants"), a public entity is, and at all times herein mentioned, was a county

1 department and political subdivision of the State of California, duly organized and existing under
2 the laws of the State of California. Kern County Probation is responsible for the improper
3 shootings of Dexter and Della as well as the injury of Della and the death of Dexter.

4 6. Plaintiff is informed and believes and therefore alleges that Defendant KERN COUNTY
5 PROBATION OFFICER CARLOS SILLAS (hereinafter referred to as "SILLAS" or
6 "defendant") is, and at all times herein mentioned, was employed by Defendant Kern County
7 Probation and in doing the things hereinafter alleged was acting in the course and scope of
8 employment and under the color of the County's authority and under the color of statutes,
9 ordinances, regulations, customs, and usage of the State of California and the County of Kern.
10 Plaintiff is informed and believes and on that basis alleges that SILLAS is responsible for the
11 improper and unlawful shootings of DEXTER and DELLA, as well as the injury of DELLA and
12 the death of DEXTER.
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14 7. Defendants, "Kern County," "Kern County Probation" and "SILLAS" are, and at all
15 times herein mentioned were, the agents and employees of its/their co-defendants, and in doing
16 these things hereinafter alleged were acting within the course and scope of such agency and the
17 permission and consent of their co-defendants.
18

19 8. At all times herein mentioned, each Defendant was the agent, partner, joint venturer, and
20 employee of each of the remaining Defendants, and in doing the things herein alleged, was
21 acting within the course and scope of each agency, partnership, joint venture, and employment
22 with the advance knowledge, acquiescence or subsequent ratification of each and every
23 remaining defendant.
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25 9. Plaintiff has complied with the California Tort Claims Act by timely filing a claim
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1 against Defendant, "COUNTY OF KERN." The claims were rejected on or less than six months
2 ago.

3 IV.

4 **STATEMENT OF FACTS RELEVANT TO ALL CAUSES OF ACTION**

5 10. Plaintiff was the owner and possessor of a ten year old, male, Queensland Heeler dog
6 named DEXTER, hereinafter referred to as "DEXTER," and of a 3 year old, female, Queensland
7 Heeler mixed breed dog named DELLA, hereinafter referred to as "DELLA."

8 11. DEXTER and DELLA had been the companion animals of Plaintiff's and important
9 members of Plaintiff's family. Defendants, and each of them knew or should have known of
10 Plaintiff's close attachment to her dogs, DEXTER and DELLA, and of DEXTER and DELLA's
11 special value to Plaintiff.
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13 12. On or about July 24, 2014, Plaintiff was at her residence with her dogs DEXTER and
14 DELLA, when the two dogs started barking and Plaintiff noticed a laser light shining through her
15 door, while someone was holding the doggy door closed.
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17 13. A man outside of her front door then identified himself as Defendant KERN COUNTY
18 PROBATION OFFICER CARLOS SILLAS with the Kern County Probation Department and
19 asked Plaintiff to put her dogs away.
20

21 14. SILLAS and a second female probation officer had come to Plaintiff's residence to see
22 Plaintiff's step-daughter, who was currently on probation and living with Plaintiff, but was not
23 home.
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25 15. After immediately securing DEXTER and DELLA in her bedroom, Plaintiff let SILLAS
26 and the female officer come into Plaintiff's house.
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1 16. The female officer went in to Plaintiff's stepdaughter's bedroom and SILLAS remained
2 in the room with Plaintiff and spoke to Plaintiff about her stepdaughter.

3 17. SILLAS then asked Plaintiff how many dogs she had and what breed they were. Plaintiff
4 informed SILLAS that she had two dogs and that one was a purebred Queensland Heeler and the
5 other was a mixed breed Queensland Heller.

6 18. SILLAS then asked Plaintiff if either of her dogs bite. Plaintiff told SILLAS that neither
7 of the dogs had ever bitten anyone. She also informed him that both dogs act protective of their
8 home at times if someone opens the gate to Plaintiff's front yard. Plaintiff then asked SILLAS if
9 the probation officers would call shortly before they come back to the house the next time, so
10 that she could put DEXTER and DELLA away. Plaintiff informed SILLAS that she is almost
11 always home and even gave SILLAS her cell phone number to reach her any time. SILLAS told
12 Plaintiff on three separate occasions that the probation officers would call Plaintiff before they
13 come the next time.

14 19. Plaintiff informed SILLAS and the female officer that they did not need to worry about
15 Plaintiff telling her stepdaughter that they were coming because Plaintiff wanted her
16 stepdaughter to comply with the probation orders and Plaintiff's stepdaughter also had an ankle
17 monitor. Officer SILLAS confirmed that he would in fact call Plaintiff before he returned to the
18 residence.

19 20. Approximately one week later, on or about 7:00 pm on July 31, 2014, DEXTER and
20 DELLA were sitting calmly with Plaintiff and her family in the living room of Plaintiff's home.
21 DEXTER and DELLA suddenly ran out of the doggy door into Plaintiff's fenced-in front yard
22 and Plaintiff immediately heard multiple gun-shots.
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1 21. Plaintiff then ran out of her front door to see that the front gate was open and DEXTER
2 had been shot by SILLAS. DEXTER was lying on the ground inside his yard near the open gate,
3 and he was dying.

4 22. Plaintiff began crying and asking SILLAS why he shot DEXTER and why he did not
5 call Plaintiff before he came to Plaintiff's house as he had told Plaintiff he would do a week
6 earlier. SILLAS then callously informed Plaintiff that he was not obligated to call Plaintiff.
7 Plaintiff suffered a stress induced asthma attack immediately following the shooting.
8

9 23. Later that day, the Kern County Sheriff's Department came to Plaintiff's home and
10 performed an investigation of the shooting.
11

12 24. The following day, Plaintiff noticed that DELLA was limping very badly. Plaintiff
13 checked DELLA's body and realized that she had been shot in the chest. Plaintiff immediately
14 took DELLA to her veterinarian and found out that the bullet went down into DELLA's leg
15 rather than straight into her chest.
16

17 25. Della had to undergo extensive surgery in order to remove the bullet. Della was badly
18 injured and the wound took a considerable amount of time to heal. Her surgery also involved
19 being subjected to a catheter, an IV with fluids and had a drain inserted into her, which had to
20 be removed several days later. DELLA and suffered physically, emotionally, and
21 psychologically by having to endure the agony of being shot, watching her brother die, the
22 painful and stressful surgery to have the bullet removed, and the long and difficult healing
23 process.
24

25 26. DEXTER not only suffered physically by paying the ultimate price of his life, but in the
26 moments he laid dying on the ground, he also suffered emotionally and psychologically.
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1 27. Plaintiff suffered emotionally and psychologically with having to watch one of her
2 family companions die in front of her and her other companion to suffer needlessly and has
3 incurred additional damages and expenses as described below. Plaintiff has suffered from
4 nightmares, uncharacteristic irritability, depression, and stomach complications due to watching
5 her companions suffer and die. Equitable relief is necessary in this case because relief at law is
6 inadequate. The emotional devastation cannot be quantified and equitable relief is necessary to
7 provide justice in this case.
8

9 **FIRST CAUSE OF ACTION**

10 **TRESPASS TO CHATTEL - WILLFUL INJURY TO ANIMALS**

11 **(Against All Defendants)**

12
13 28. The allegations of paragraphs 1-27 are re-alleged and incorporated by reference

14 29. At all times herein mentioned, Plaintiff was the owner and possessor of a male, ten year
15 old, Queensland Heeler family dog, known as DEXTER and a female, three year old Queensland
16 Heller mixed breed family dog, known as DELLA. Both of these dogs were gentle, good-
17 natured companion dogs and family pets. At the time of the shooting and killing of DEXTER
18 and the shooting and critical injury of DELLA, DEXTER and DELLA were the companions of
19 the Plaintiff and her family and friends, and were known and enjoyed by all of them, and
20 therefore were irreplaceable in like and in kind.
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22 30. On or about July 31, 2014, while Defendants COUNTY OF KERN, KERN COUNTY
23 PROBATION DEPARTMENT, and PROBATION OFFICER CARLOS SILLAS, were working
24 in the course and scope of their employment, and individually, Defendants intentionally,
25 willfully, in disregard of humanity, and in violation of law; without lawful authority, shot and
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1 injured Plaintiff's dog DELLA and shot and killed Plaintiff's dog DEXTER.

2 31. In doing the acts herein complained of, Defendants acted willfully, and in complete
3 disregard of humanity and with a willful disregard for both the law and the property rights of
4 private citizens. As a direct and legal result of these breaches by defendants, the Plaintiff was
5 damaged, in an amount according to proof.
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7 **SECOND CAUSE OF ACTION**

8 **CONVERSION**

9 **(Count One - As to Defendant Officer Carlos Sillas)**

10 32. The allegations of paragraphs 1-31 are re-alleged and incorporated herein, by
11 reference.
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13 33. At all times herein mentioned, Plaintiff was the owner of a beautiful and kind dog
14 named DEXTER. Plaintiff were entitled to the possession of the following personal property,
15 namely: DEXTER.

16 34. On or about July 31, 2014, Defendants willfully and intentionally shot and killed
17 Plaintiff's dog, DEXTER, thereby taking and destroying valuable property of the Plaintiff's.
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19 35. Defendants appropriated dominion and control over DEXTER to their own use.

20 36. In doing the acts herein alleged, defendants actually and substantially interfered
21 with Plaintiff's property rights and converted DEXTER to their/its own use.
22

23 37. The above acts were done knowingly, and with gross negligence, in disregard of
24 Humanity. Defendants, having shot Plaintiff's dog and caused his death, held themselves out as
25 the owners of DEXTER, thereby causing serious and severe emotional distress to Plaintiff as
26 well complete loss of her property.
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1 38. As a direct and legal result of the acts and omissions of the Defendants, Plaintiff
2 suffered out of pocket losses including medical expenses for DEXTER and DELLA and other
3 general and special damages, including pain and suffering and severe emotional distress, in an
4 amount, according to proof.

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6 39. At the time defendants converted the property, i.e. DEXTER, defendants were guilty of
7 malice, oppression, recklessness, and a willful and conscious disregard of humanity and for the
8 rights of Plaintiff.

9
10 40. By reason of these acts, Plaintiff has been oppressed and seeks punitive and exemplary
11 damages, and other damages according to proof.

12 **(Count Two - As to Defendant County of Kern)**

13 41. The allegations of paragraphs 1-40 are re-alleged and incorporated herein, by
14 reference.

15 42. At all times herein mentioned, Plaintiff was the owner of a beautiful and kind dog
16 named DEXTER. Plaintiff was entitled to the possession of the following personal property,
17 namely: DEXTER.

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19 43. On or about July 31, 2014, Defendants willfully and intentionally shot and killed
20 Plaintiff's dog, DEXTER, thereby taking and destroying valuable property of the Plaintiff's.

21 44. Defendants appropriated dominion and control over DEXTER to their own use.

22 45. In doing the acts herein alleged, defendants actually and substantially interfered
23 with Plaintiff's rights and converted DEXTER to their/its own use.

24 46. The above acts were done knowingly, and with gross negligence, in disregard of
25 Humanity. Defendants, having shot Plaintiff's dog and caused his death, held themselves out as
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1 the owners of the dog, thereby causing serious and severe emotional distress to Plaintiff.

2 47. As a direct and legal result of the acts and omissions of the Defendants, Plaintiff
3 suffered out of pocket losses including medical expenses for DEXTER and other general and
4 special damages, including emotional distress, in an amount, according to proof.

5 48. At the time defendants converted the property, i.e. DEXTER, defendants were guilty of

6 49. malice, oppression, recklessness, and a willful and conscious disregard for
7 humanity and for the rights of Plaintiff.
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9 **(Count Two - As to Defendant Kern County Probation Department)**

10 50. The allegations of paragraphs 1-49 are re-alleged and incorporated herein, by
11 reference.
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13 51. At all times herein mentioned, Plaintiff was the owner of a beautiful and kind dog
14 named DEXTER. Plaintiff was entitled to the possession of the following personal property,
15 namely: DEXTER.

16 52. On or about July 31, 2014, Defendants willfully and intentionally shot and killed
17 Plaintiff's dog, DEXTER, thereby taking and destroying valuable property of the Plaintiff's.
18

19 53. Defendants appropriated dominion and control over DEXTER to their own use.

20 54. In doing the acts herein alleged, defendants actually and substantially interfered
21 with Plaintiff's rights and converted DEXTER to their/its own use.

22 55. The above acts were done knowingly, and with gross negligence, in disregard of
23 humanity. Defendants, having shot Plaintiff's dog and causing him death, held themselves out as
24 the owners of the dog, thereby causing serious and severe emotional distress to Plaintiff.
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26 56. As a direct and legal result of the acts and omissions of the Defendants, Plaintiff
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1 suffered out of pocket losses including medical expenses for DEXTER and DELLA and other
2 general and special damages, including pain and suffering, and emotional distress, in an amount,
3 according to proof.

4 57. At the time defendants converted the property, i.e. DEXTER, defendants were
5 guilty of malice, oppression, recklessness, and a willful and conscious disregard for humanity
6 and for the rights of Plaintiff.
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8 **THIRD CAUSE OF ACTION**

9 **NEGLIGENCE PER SE**

10 **CRUELTY TO ANIMALS (VIOLATIONS OF CAL. PENAL CODE §597**

11 **(Count One - As to Defendant Officer Carlos Sillas)**

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13 58. The allegations of paragraphs 1-57 are re-alleged and incorporated by reference
14 herein.

15 59. On or about July 31, 2014, Defendants, while working in the course and scope of
16 their employment, and individually, shot DELLA and DEXTER, causing DEXTER's death, and
17 injuring DELLA without due process of law, and in violation of Plaintiff's rights as owner of
18 DEXTER and DELLA.
19

20 60. Defendants' duty that gives rise to strict liability arises from conduct that was
21 both intentional and intended to harm.

22 61. Defendants had a duty to treat DEXTER and DELLA kindly and not to shoot
23 them. Defendants also had a duty to care for DELLA and DEXTER after Defendants shot them.
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25 62. Defendants breached this obligation imposed by law by not properly and
26 reasonably using care towards Plaintiff's dogs, DEXTER and DELLA. Instead, DEXTER was
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1 intentionally shot and then left to die in Plaintiff's front yard and DELLA was intentionally shot
2 in the chest and then left behind with no care or attention from Defendants whatsoever.

3 63. The acts or omissions of the defendants were wrongful, malicious, intentional,
4 and reckless, and done with the intent to harm, and amounted to no less than gross negligence, in
5 disregard of humanity, and were in violation of law, including Penal Code §597, and justify the
6 awarding of exemplary and punitive damages.
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8 64. As a direct and legal result of the acts and omissions enumerated above, Plaintiff
9 suffered the special, general, and other damages alleged heretofore, and below, according to
10 proof.
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12 65. The shooting and killing of Plaintiff's dog DEXTER and the shooting and critical
13 injury to Plaintiff's dog DELLA were done intentionally and maliciously or with no less than
14 gross negligence, in that they were intentional wrongful acts without legal justification or excuse
15 and were done in reckless disregard of Plaintiff's rights, and therefore in violation of Cal. Penal
16 Code §597(a).
17

18 **(Count Two - As to Defendant County of Kern)**

19 66. The allegations of paragraphs 1-65 are re-alleged and incorporated by reference
20 herein.

21 67. On or about July 31, 2014, Defendants, while working in the course and scope of
22 their employment, and individually, shot DELLA and DEXTER, causing DEXTER's death,
23 without due process of law, and in violation of Plaintiff's rights as owner of DEXTER and
24 DELLA.
25

26 68. Defendants' duty that gives rise to strict liability arises from conduct that was
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1 both intentional and intended to harm.

2 69. Defendants had a duty to treat DEXTER and DELLA kindly and not to shoot
3 them. Defendants also had a duty to care for DELLA and DEXTER after Defendants shot them.

4 70. Defendants breached this obligation imposed by law by not properly and
5 reasonably using care towards Plaintiff's dogs, DEXTER and DELLA. Instead, DEXTER was
6 intentionally shot and then left to die in Plaintiff's front yard and DELLA was intentionally shot
7 in the chest and then left behind with no care or attention from Defendants whatsoever.

9 71. As a direct and legal result of the acts and omissions enumerated above, Plaintiff
10 suffered the special, general, and other damages alleged heretofore, and below, according to
11 proof.

12 72. The shooting and killing of Plaintiff's dog DEXTER and the shooting and critical
13 injury to Plaintiff's dog DELLA, were done intentionally and maliciously or with no less than
14 gross negligence, in that they were intentional wrongful acts without legal justification or excuse
15 and were done in reckless disregard of Plaintiff's rights, and therefore in violation of Cal. Penal
16 Code §597(a).

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19 **(Count Two - As to Defendant Kern County Probation Department)**

20 73. The allegations of paragraphs 1-72 are re-alleged and incorporated by reference
21 herein.

22 74. On or about July 31, 2014, Defendants, while working in the course and scope of
23 their employment, and individually, shot DELLA and DEXTER, causing DEXTER's death,
24 without due process of law, and in violation of Plaintiff's rights as owner of DEXTER and
25 DELLA.
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1 75. Defendants' duty that gives rise to strict liability arises from conduct that was
2 both intentional and intended to harm.

3 76. Defendants had a duty to treat DEXTER and DELLA kindly and not to shoot
4 them. Defendants also had a duty to care for DELLA and DEXTER after Defendants shot them.

5 77. Defendants breached this obligation imposed by law by not properly and
6 reasonably using care towards Plaintiff's dogs, DEXTER and DELLA. Instead, DEXTER was
7 intentionally shot and then left to die in Plaintiff's front yard and DELLA was intentionally shot
8 in the chest and then left behind with no care or attention from Defendants whatsoever.

9
10 78. As a direct and legal result of the acts and omissions enumerated above, Plaintiff
11 suffered the special, general, and other damages alleged heretofore, and below, according to
12 proof.

13
14 79. The shooting and killing of Plaintiff's dog DEXTER and the shooting and critical
15 injury of Plaintiff's dog DELLA were done intentionally and maliciously or with no less than
16 gross negligence, in that they were intentional wrongful acts without legal justification or excuse
17 and were done in reckless disregard of Plaintiff's rights, and therefore in violation of Cal. Penal
18 Code §597(a).

19
20 **FOURTH CAUSE OF ACTION**

21 **VIOLATION OF CIVIL RIGHTS: 42 U.S. §1983**

22 **(Against All Defendants)**

23
24 80. Plaintiff hereby refers to and incorporates by reference paragraphs 1-79 as though
25 fully set forth herein.

26 81. On or about July 24, 2014, Defendants were made aware of:
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- a. DEXTER and DELLA's presence at Plaintiff's home;
- b. DEXTER and DELLA's habit of running outside when someone opens the gate;
- c. Plaintiff's availability to retain custody of DEXTER and DELLA;
- d. Plaintiff's desire to secure DEXTER and DELLA; and
- e. Plaintiff's desire for her stepdaughter to comply with probation orders

82. On or about July 31, 2014, SILLAS opened the front gate to Plaintiff's yard without first attempting to contact Plaintiff and without giving Plaintiff any opportunity whatsoever to secure DEXTER and DELLA, and after he had repeatedly agreed to contact Plaintiff prior to entry.

83. SILLAS unnecessarily and unlawfully shot both DEXTER and DELLA immediately after they ran out of the doggy door in to Plaintiff's front yard, without even having the time to evaluate whether DEXTER and/or DELLA posed any type of threat whatsoever.

84. Defendants had ample time and opportunity to create a reasonable plan of entry on to Plaintiff's property that included alternative methods of subduing the dogs besides shooting and destroying them, but Defendants failed to do so.

85. The conduct of the Defendants, and each of them, as described in this complaint interfered with, by the unreasonable and unnecessary destruction of property, the Plaintiff's exercise and enjoyment of rights secured by the Constitution and laws of the United States, including Due Process and Fourth Amendment violations. Such actions are in violation of Title 42 U.S. Code §1983 United States Code.

86. Defendant COUNTY OF KERN has a careless and reckless policy of allowing the employees of the Kern County Probation Department to treat canines and other property with the

1 attitude that they/it are expendable and not entitled to live, in such a way as to cause the
2 destruction of citizens' canine pets without lawful justification.

3 87. These policies allow, condone, ratify, and afford the reckless, careless, and
4 erroneous shooting of domestic canines and thereby, incompetent, unqualified, untrained,
5 unskilled, and inexperienced personnel to shoot animals; so as to make mistakes that could cause
6 the death of citizens' canine pets.
7

8 88. With complete disregard for the law, Defendants have also committed a Fourth
9 Amendment violation by attempting to unreasonably deprive Plaintiff of her animal companions
10 DEXTER and DELLA through destruction.
11

12 89. As alleged in the foregoing paragraphs, Defendants, and each of them, both
13 individually and by and through their agents and employees, acting under color of the statutes,
14 ordinances, regulation, custom, and usage subjected and/or caused Plaintiff to be subjected to a
15 violation of those Rights, Privileges, and Immunities secured by the Constitution and laws of the
16 United States.
17

18 90. Defendants subjected, and caused to be subjected, the Plaintiff to a deprivation of
19 her Rights, Privileges, and Immunities provided by the Constitution and laws of the United
20 States by the unreasonable shooting and destruction of Plaintiffs' dog, DEXTER and by the
21 shooting and critical injury of Plaintiff's dog DELLA, in violation of Due Process and the Search
22 and Seizure laws; without notice or an opportunity to be heard, and without lawful authority, in
23 direct violation of the owner and possessors freedom to keep personal property, without the
24 unlawful taking of such property.
25

26 91. As a direct and legal result of the tortious acts of Defendants, and each of them,
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1 Plaintiff has suffered actual, special, and general damages, according to proof.

2 92. The Defendants, and each of them, by their conduct, in committing the acts
3 complained of herein, did so maliciously, oppressively, in disregard of humanity, and in total
4 disregard of Plaintiff's rights, and with the intent to harm Plaintiff, or the reckless disregard for
5 the consequences of Defendants' acts. Plaintiff, therefore pray for exemplary and punitive
6 damages as to all Defendants, in an amount, according to proof.
7

8 **FIFTH CAUSE OF ACTION**

9 **NEGLIGENCE; GOVERNMENT**

10 **(As to Defendant County of Kern)**

11 93. Plaintiff hereby refers to and incorporates by reference paragraphs 1-92 as
12 though fully set forth herein.
13

14 94. Defendant COUNTY OF KERN is an official government agency.

15 95. COUNTY OF KERN is liable for injury proximately caused by an act or omission
16 of their employee within the scope of his or her employment if the act or omission would have
17 given rise to a cause of action against that employee or his personal representative.
18

19 96. COUNTY OF KERN is under a mandatory duty imposed by an enactment that is
20 designed to protect against the risk of a particular kind of injury.
21

22 97. COUNTY OF KERN is liable for an injury of that kind proximately caused by its failure
23 to discharge the duty unless they establish that it exercised reasonable diligence to discharge the
24 duty.

25 98. Defendants have a Duty to protect people and their property from harm.

26 99. Defendants, in discharging its duty as alleged above, owed a duty to citizens, including
27 the Plaintiff, who is thrust into the Defendants' employee's purview and subject to their conduct
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1 including, but not limited to, said agents, employees and service providers acting under color of
2 State Law.

3 100. Defendants, and each of them, had a duty to use reasonable care and owed a duty
4 of care to the Plaintiff to exercise that degree of care, skill and diligence commonly exercised by
5 other police departments, so as not to cause harm damage, or death to citizens' animals, or their
6 guardians or lawful owners.

7 101. As set forth in those facts alleged herein, Defendants did not act with a standard
8 of care that would insure the performance of its duties and responsibilities in protecting people
9 and their property.

10 102. Defendants owe a duty to Plaintiff to exercise reasonable care in the selection of
11 employees who are hired to serve and protect the property of the citizens of the community.

12 103. Defendants negligently retained, trained, supervised, managed, regulated,
13 oversaw, disciplined and reviewed the qualifications, conduct standards, training, experience,
14 knowledge, and performance of said Defendants, or negligently recommended the hiring or
15 retention of said Defendants and negligently failed to assure that said Defendants were properly
16 trained, supervised, managed, regulated, overseen, disciplined, and reviewed concerning their
17 qualification, conduct, standards, training, experience, knowledge, and performance. Defendants
18 further directed and ratified and condoned the acts alleged committed by said Defendants and
19 negligently, carelessly, and recklessly used as agents and employees to carry out such
20 responsibilities.
21

22 104. Because Defendants breached their duties, Plaintiff was directly and legally
23 damaged in the manner set forth and in an amount to be proven, according to proof.
24

25 105. Defendants, and each of them, breached their duty to DEXTER, DELLA, and to
26 Plaintiff by shooting them without consent or legal authority.
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1 106. The Defendants knew or should have known that opening the gate to Plaintiff's
2 yard and shooting DEXTER and DELLA right in front of Plaintiff's home, after specifically
3 telling Plaintiff three times that Defendants would call Plaintiff prior to their arrival at Plaintiff's
4 home so that she could secure DEXTER and DELLA, with no intent of, and without rendering
5 aid to DELLA after she was shot, would create emotional and psychological injuries to Plaintiff.
6

7 107. As a direct and legal result of the conduct and omissions of the Defendants, and
8 each of them, DEXTER, DELLA, and the Plaintiff sustained damages and injuries as further
9 described below.

10 108. Defendants, and each of them, carelessly, recklessly, with gross negligence, and
11 in disregard of humanity, caused injuries and damages to the Plaintiff, as set out herein and
12 below, and justify the awarding of exemplary and punitive damages.
13

14 109. The Plaintiff's injuries would not have normally occurred in the absence of the
15 defendants' negligence.

16 110. As a direct and legal result of the defendants' negligent acts, Plaintiff has been
17 injured in her health, activity, and livelihood, all of which injuries have caused mental,
18 emotional, and pain and suffering. Plaintiff has suffered economic, non-economic and other
19 damages and injuries as more specifically set forth in the prayer below.
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22 **SIXTH CAUSE OF ACTION**

23 **NEGLIGENCE**

24 **(As to Defendant Officer Carlos Sillas)**

25 111. The allegations of paragraphs 1-110 are re-alleged and incorporated by reference
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1 herein.

2 112. Defendant had a duty to use reasonable care and owed a duty of care to the
3 Plaintiff to exercise that degree of care, skill and diligence commonly exercised by other officers,
4 so as not to cause harm or damage to citizens' animals or their guardians or lawful owners.

5 113. Defendant had a duty to treat DEXTER and DELLA kindly and not to shoot them
6 and then leave DELLA wounded and suffering and DEXTER suffering and dying.

7 114. The Defendant knew or should have known that opening the gate to Plaintiff's
8 yard and shooting DEXTER and DELLA right in front of Plaintiff's home, after specifically
9 telling Plaintiff three times that Defendants would call Plaintiff prior to their arrival at Plaintiff's
10 home so that she could secure DEXTER and DELLA, with no intent of and without rendering
11 aid to DELLA after she was shot, would create emotional and psychological injuries to Plaintiff.
12

13 115. Defendant carelessly, recklessly, with gross negligence, and in disregard of
14 humanity, caused injuries and damages to the Plaintiff, as set out herein and below, and justify
15 the awarding of exemplary and punitive damages.
16

17 116. The Plaintiff's injuries would not have normally occurred in the absence of the
18 defendant's negligence.
19

20 117. As a direct and legal result of the defendants' negligent acts, Plaintiff has been
21 injured in her health, activity, and livelihood, all of which injuries have caused mental,
22 emotional, and nervous pain and suffering. Plaintiff has suffered economic, non-economic and
23 other damages and injuries as more specifically set forth in the prayer below.
24

25
26 **SEVENTH CAUSE OF ACTION**
27
28

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(As to All Defendants)

118. The allegations of paragraphs 1-117 are re-alleged and incorporated by reference herein.

119. At all times mentioned in this complaint, Defendants were working in the course and scope of their employment.

120. On or about July 31, 2014, Defendants shot, without consent, Plaintiffs' dogs, DEXTER and DELLA, thereby willfully, intentionally, and with malice injuring and destroying valuable property of Plaintiffs, namely DEXTER and DELLA without consent or legal authority.

121. The Defendants, and each of them, were aware, or should have been aware, that Plaintiff was the owner of DEXTER and DELLA and that she and her family loved DEXTER and DELLA very much.

122. When Kern County Probation Officers came to Plaintiff's home unannounced, opened the gate, and shot DEXTER and DELLA, Plaintiff was left helpless and was forced to watch DEXTER die and DELLA suffer, causing severe emotional distress to Plaintiff, when Plaintiff had requested, and Defendants three times agreed, that Defendants would call Plaintiff prior to Defendants' arrival to Plaintiff's home so that Plaintiff could secure her dogs. Plaintiff has since suffered a stress induced asthma attack, nightmares, uncharacteristic irritability, depression, and stomach complications due to the shootings of DEXTER and DELLA.

123. Defendants thereby acted outrageously, intentionally, knowingly, and unreasonably with the specific intent to inflict mental anguish, emotional, and physical distress.

124. Defendants' conduct had a severe and traumatic and lasting effect on Plaintiff's

1 emotional tranquility. As a proximate result of the outrageous acts of the Defendants, Plaintiff
2 has suffered severe emotional distress and a loss of and reduction of enjoyment in life.

3 125. As a direct and legal result of Defendant's conduct, Plaintiff has suffered special
4 and general damages, as described below in an amount to be determined by proof at trial.

5 126. The conduct set forth in this Complaint was extreme and outrageous and an abuse
6 of the authority and position of Defendants and each of them. Said conduct was intended to
7 cause severe emotional distress and was done in conscious disregard of the probability of causing
8 such distress.
9

10 127. Defendants also knew or should have known that opening the gate to Plaintiff's
11 yard and shooting and killing DEXTER and shooting and critically injuring DELLA right in
12 front of Plaintiff's home, after specifically telling Plaintiff three times that Defendants would call
13 Plaintiff prior to their arrival at Plaintiff's home so that she could secure DEXTER and DELLA,
14 with no intent of and without rendering aid to DELLA after she was shot, would cause the
15 Plaintiff severe emotional distress and mental anguish.
16

17 128. Further, such conduct was outrageous and unprivileged, and was undertaken with
18 the intent to cause, or with reckless disregard of the probability of causing emotional distress
19 where DEXTER and DELLA did not provoke officers and even after shooting and critically
20 injuring DELLA, the officers did nothing to help DELLA.
21

22 129. As a direct and legal result of the Defendants outrageous conduct, the Plaintiff
23 suffered severe emotional distress.
24

25 130. The Defendants' conduct in committing the acts complained of herein was done
26 willfully, maliciously and oppressively, with the intent to harm Plaintiff. Plaintiff therefore prays
27
28

1 for exemplary and punitive damages as to Defendant SILLAS.

2 131. The distress created was in time and manner sufficiently substantial such that a
3 reasonable person of ordinary sensibilities would suffer under the circumstances.

4 Wherefore:

5 **AS TO THE FIRST CAUSE OF ACTION**, Complainant prays judgment against Defendant,
6 for damages in excess of \$75,000, in amounts according to proof:
7

8 1. For general damages;
9 2. For punitive damages;
10 3. Upon a verdict or judicial finding in favor of Lee on her trespass to chattel claim,
11 for a permanent injunction requiring Defendants to provide, or Plaintiff will provide, adequate
12 dog handling training for all officers. Full details to be discussed at a later time.
13

14 4. For interest on Plaintiff's damages to the date of judgment;

15 5. For costs of suit incurred herein;

16 6. For Attorney's fees, pursuant to 42 U.S. §1983; and

17 7. For such other relief as the Court may deem just and proper.
18

19 **AS TO THE SECOND CAUSE OF ACTION**, Complainant prays judgment against
20 Defendant, for damages in excess of \$75,000, in amounts according to proof, for:

21 1. For general damages;
22 2. For punitive damages;
23 3. Upon a verdict or judicial finding in favor of Lee on her conversion claim, for a
24 permanent injunction requiring Defendants to provide, or Plaintiff will provide, adequate dog
25 handling training for all officers. Full details to be discussed at a later time.
26
27
28

4. For interest on Plaintiff's damages to the date of judgment;
5. For costs of suit incurred herein;
6. For Attorney's fees, pursuant to 42 U.S. §1983; and
7. For such other relief as the Court may deem just and proper.

AS TO THE THIRD CAUSE OF ACTION, Complainant prays judgment against Defendant, for damages in excess of \$75,000, in amounts according to proof, for:

1. For general damages;
2. For punitive damages;
3. Upon a verdict or judicial finding in favor of Lee on her negligence per se claim, for a permanent injunction requiring Defendants to provide, or Plaintiff will provide, adequate dog handling training for all officers. Full details to be discussed at a later time.

4. For interest on Plaintiff's damages to the date of judgment;
5. For costs of suit incurred herein;
6. For Attorney's fees, pursuant to 42 U.S. §1983; and
7. For such other relief as the Court may deem just and proper.

AS TO THE FOURTH CAUSE OF ACTION, Complainant prays judgment against Defendant, for damages in excess of \$75,000, in amounts according to proof, for:

1. For general damages;
2. For punitive damages;
3. Upon a verdict or judicial finding in favor of Lee on her violation of civil rights claim, for a permanent injunction requiring Defendants to provide, or Plaintiff will provide, adequate dog handling training for all officers. Full details to be disclosed at a later time.

4. For interest on Plaintiff's damages to the date of judgment;
5. For costs of suit incurred herein;
6. For Attorney's fees, pursuant to 42 U.S. §1983; and
7. For such other relief as the Court may deem just and proper.

AS TO THE FIFTH CAUSE OF ACTION, Complainant prays judgment against Defendant, for damages in excess of \$75,000, in amounts according to proof, for:

1. For general damages;
2. For punitive damages;
3. Upon a verdict or judicial finding in favor of Lee on her negligence claim, for a permanent injunction requiring Defendants to provide, or Plaintiff will provide, adequate dog handling training for all officers. Full details to be discussed at a later time.

4. For interest on Plaintiff's damages to the date of judgment;
5. For costs of suit incurred herein;
6. For Attorney's fees, pursuant to 42 U.S. §1983; and
7. For such other relief as the Court may deem just and proper.

AS TO THE SIXTH CAUSE OF ACTION, Complainant prays judgment against Defendant, for damages in excess of \$75,000, in amounts according to proof, for:

1. For general damages;
2. For punitive damages;
3. Upon a verdict or judicial finding in favor of Lee on her negligence claim, for a permanent injunction requiring Defendants to provide, or Plaintiff will provide, adequate dog handling training for all officers. Full details to be discussed at a later time.

4. For interest on Plaintiff's damages to the date of judgment;
5. For costs of suit incurred herein;
6. For Attorney's fees, pursuant to 42 U.S. §1983; and
7. For such other relief as the Court may deem just and proper.

AS TO THE SEVENTH CAUSE OF ACTION, Complainant prays judgment against Defendant, for damages in excess of \$75,000, in amounts according to proof, for:

1. For general damages;
2. For punitive damages;
3. Upon a verdict or judicial finding in favor of Lee on her intentional infliction of emotional distress claim, for a permanent injunction requiring Defendants to provide, or Plaintiff will provide, adequate dog handling training for all officers. Full details to be discussed at a later time.

4. For interest on Plaintiff's damages to the date of judgment;
5. For costs of suit incurred herein;
6. For Attorney's fees, pursuant to 42 U.S. §1983; and
7. For such other relief as the Court may deem just and proper.

Dated: January 14, 2015


Jill Ryther, Attorney for Plaintiff